

# HOMESTEAD CREDIT AND DEDUCTIONS

## Frequently Asked Questions (FAQs)

**1. Question: Under the new law, for a deduction to apply, by which dates must the property be conveyed to the new owner?**

*Answer:* A property must be conveyed during the calendar year (January 1 to December 31) in which the credit is sought, since the filing deadlines for real property owners (i.e., June 11) and the “residency” requirement of March 1 for the homestead credit have been repealed (except for the “carry over” provision). Now, the only requirement is that the person (1) own the real property, mobile home, or manufactured home; or (2) be buying the real property, mobile home, or manufactured home under contract; on the date the application for the deduction is filed. Thus, if a person files for the mortgage deduction on or before December 31, 2008 and meets the eligibility requirements for the mortgage deduction, the deduction applies for the March 1, 2008 assessment date and for property taxes due and payable in 2009 (i.e., 2009 property tax bills).

**2. “Carry Over” Provision. The following questions use the example given in the memo of June 2, 2008 (changes to the Sales Disclosure Form (“SDF”).**

**a. Question: If Mr. Samuel is determined eligible for the deduction on March 1, 2009, does that mean he must file by March 1, 2009, or can he file anytime during the 2009 year?**

*Answer:* Mr. Samuel may file anytime on or before December 31, 2009 to receive the credit for his property taxes for 09p10<sup>1</sup>. The “carry over” provision for the homestead credit only covers him for property taxes for 08p09<sup>2</sup>.

**b. Question: If the property Mr. Samuel purchased was transferred four (4) times in 2008, does the most recent owner have to have applied for the deduction for Mr. Samuel to receive the “carry over,” or can any one (1) of the prior owners have applied for the deductions?**

*Answer:* Per IC 6-1.1-20.9-7, as long as any of the previous owners were deemed eligible, applied for, and were entitled to receive the homestead credit for 08p09, it does not matter whether the title was conveyed one or more times between March 1, 2008 and March 1, 2009. In addition, it does not matter whether one or more grantees of title/contract buyers filed an application for the homestead credit on that homestead. What is of great importance is that Mr. Samuel (i.e. title holder) on March 1, 2009, is eligible for the homestead credit for 09p10. If so, Mr. Samuel will get the benefit of the homestead credit for 08p09 from one of the previously eligible homestead owners entitled to receive the credit for 08p09.

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<sup>1</sup> “09p10” means 2009-pay-2010; in other words, property assessments for the March 1, 2009 assessment date for property taxes due and payable in 2010.

<sup>2</sup> “08p09” means 2008-pay-2009; in other words, property assessments for the March 1, 2008 assessment date for property taxes due and payable in 2009.

**3. Question: Does the new owner have to file by March 1, 2009 to be eligible for the “carry over” of the prior owner?**

*Answer:* Yes, the new owner (e.g., Mr. Samuel) would have to file a homestead credit application (either on the certified statement form or SDF) on or before March 1, 2009. Fortunately, if Mr. Samuel bought the house on February 1, 2009, he can apply for the homestead credit on the SDF. This would give an indication as to whether or not he was eligible on March 1, 2009. Mr. Samuel must apply for the homestead credit in order to be deemed eligible.

**4. Question: If property has changed hands numerous times during the year, and the many owners applied for, and were granted, various other deductions, is Mr. Samuel able to keep any of the deductions for 2009?**

*Answer:* Yes, if Mr. Samuel is eligible on March 1, 2009 (i.e., “the next succeeding assessment date”). HEA 1293 (P.L. 144-2008), Section 38 added IC 6-1.1-12-45 to the Indiana Code, effective as of January 1, 2008 (retroactive), applies only to property taxes first due and payable *in 2009 and thereafter*. This section of the Code is almost identical to the homestead credit “carry over” provision.

The new “carry over” law for deduction(s) states that a deduction(s) applies for pay-2009 regardless of whether the title is conveyed one or more times after that March 1, 2008 assessment date and on or before the March 1, 2009 assessment date. This “carry over” applies to the deduction(s) only if the title holder on the March 1, 2009 assessment date is eligible for the deduction for that March 1, 2009 assessment date regardless of whether one or more grantees of title files an application to claim the deduction. This “carry over” deduction applies for only one (1) year.

The deductions subject to the “carry over” provision (IC 6-1.1-12-45 (effective January 1, 2008 (retroactive))) are as follows:

- Mortgage (IC 6-1.1-12-2)
- Persons over 65 (IC 6-1.1-12-10.1)
- Blind persons (IC 6-1.1-12-12)
- Disabled veteran (IC 6-1.1-12-15)
- Surviving Spouse of Veteran (IC 6-1.1-12-17)
- WWI Veterans’ Mortgage Deduction (IC 6-1.1-12-17.5)
- Rehabilitated Residential property (IC 6-1.1-12-20; -24)
- Solar energy heating or cooling system (IC 6-1.1-12-27.1)
- Wind power device (IC 6-1.1-12-30)
- Coal conversion system (IC 6-1.1-12-31)
- Hydroelectric power device (IC 6-1.1-12-33)
- Geothermal energy heating or cooling device (IC 6-1.1-12-34)
- Improvements made to comply with rules for storage of fertilizer or pesticides (IC 6-1.1-12-38).

**5. Question: Does the county have to keep track of all deductions and credits of any owner for the carry over?**

*Answer:* Yes. If Mr. Jones sells his house to Mr. Samuel on December 1, 2008 and Mr. Samuel files for the homestead credit/standard deduction and the over 65 deduction shortly thereafter in December 2008, Mr. Samuel clearly receives the benefit of that credit and deductions on his May 10, 2009 and November 10, 2009 property tax bills. However, if Mr. Samuel buys the house on January 15, 2009 and files for the homestead and the over 65 shortly thereafter in January 2009, we know he receives the benefits of the credit and deduction for pay-2010; but what about the May 10, 2009 and November 10, 2009 property tax bills? The “carry over” provision was designed to protect Mr. Samuel for pay-2009 in such a situation. So, yes, the county will need to track which deductions/homestead credit may “carry over” to ensure Mr. Samuel is protected for his May 10, 2009 and November 10, 2009 property tax bills.

**6. Hypothetical Scenario:** Mr. Jones owns two parcels of property on March 1, 2007. One is his primary residence on March 1, 2007. In December 2007, he sells his primary residence to Mr. Smith and moves to his other property. Mr. Smith believes he will receive credit for the homestead that was in effect on March 1, 2007 on his newly acquired property and has filed homestead for 08p09. Mr. Jones has requested the Auditor move his homestead and disability deductions from the property he sold in December 2007, to his other property to which he moved. This was not his residence on March 1, 2007. Mr. Jones wants this to be effective with his 2007p2008 tax bill.

**Question: Is this legal? Should the deductions stay with the property sold to Mr. Smith and require Mr. Jones to re-file on the property that he just moved to in December 2007 for the 2008-2009 taxes?**

*Answer:* The “carry over” provision for the homestead credit is effective on January 1, 2008 (retroactive) and applies first to pay-2009 property taxes (HEA 1293, Sec. 48). As a result, in this example, the “old” deadline of June 10 would apply. Thus, if Smith files in December 2007 for his new homestead, he'll get the benefit of his homestead credit application for 08p09. Mr. Jones will also get his homestead credit on his new homestead for 08p09 because he filed for the homestead credit after June 10, 2007.

The beauty of the “carry over” provision, which is first applicable to pay-2009, is if Jones had a homestead credit and sold to Smith, who was eligible for the homestead credit on March 1, 2008, Jones's homestead credit would “carry over” and be applied to Smith's property taxes first due and payable in 2008. There would be no gap in the homestead credit.

**7. Question: How am I, a County Auditor, to account for the elimination of the filing deadlines for the deductions and homestead credit when I certify my county's net assessed values to the DLGF?**

*Answer:*

a. HEA 1293, Sections 39 and 48, added provisions that allow the county auditor to make adjustments for the removal of the June 10 filing deadlines for the various deductions in HEA 1293. Section 39 amended IC 6-1.1-17-0.5, effective upon passage, March 19, 2008. However, Section 48 states that **IC 6-1.1-17-0.5, as amended by HEA 1293, applies to property taxes first due and payable in 2009 and thereafter.**

b. Specifically, the county auditor may, for each taxing unit located in the county, reduce for a calendar year (e.g., 2009) the taxing unit's assessed value that is certified to the Department and used to set tax rates for the taxing unit (i.e., net assessed values) for taxes first due and payable in the following calendar year (e.g., 2010). The county auditor may make such a reduction only to enable the taxing unit to absorb the effects of reduced property tax collections in the following calendar year (e.g., 2010) that are expected to result from **any or a combination of the following:**

(1) Successful appeals of the assessed value of property located in the taxing unit.

(2) **Deductions under IC 6-1.1-12-37** [homestead credit; standard deduction] that result from the granting of applications for the homestead credit for the calendar year (e.g., 2009) after the county auditor certifies assessed value.

(3) **Deductions that result from the granting of applications for deductions for the calendar year under IC 6-1.1-12-44** [SDF constituting application for deduction] after the county auditor certifies assessed value.

c. **Not later than December 31 of each year**, the county auditor must send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and to the Department. The certified statement must list any adjustments to the amount of the assessed value reduction and the information necessary as the result of processing homestead credit applications and deduction applications filed after the county auditor certifies assessed value.

d. The county auditor must keep separately on the tax duplicate the amount of any reductions made. **The amount of the reduction in a taxing unit's assessed value for a calendar year may not exceed two percent (2%)** of the assessed value of tangible property subject to assessment in the taxing unit in that calendar year.

**8. Question: Prior to this change, if the new buyer had the deed recorded after March 1, they could not receive the exemptions until pay-2010. Now when the new buyer comes in to file exemptions, are we to put them on for pay-2009 even though our computer system doesn't have them having ownership till pay-2010?**

*Answer:* Yes. IC 6-1.1-20.9-7(d) says if a person files an application for the homestead credit in a calendar year (e.g., 2008) to claim a credit with respect to real property, the homestead credit applies for the property taxes due and payable in the immediately following calendar year (e.g.,

pay-2009). IC 6-1.1-20.9-2, as amended by HEA 1293, eliminated the March 1 ownership / contract requirement deadline.

**9. Question: A new buyer came in today to file. We don't have them having ownership till pay-2010, so we typed up their exemptions and told them the exemptions will go on for pay-2009. When we went into the computer to enter those exemptions, the previous owners had different exemptions. Do we delete the previous owner's exemptions for pay-2009 and enter the new owner's exemptions? How do we handle that?**

*Answer:* The county will have to track all deductions and credit of any owner to ensure the next owner is covered by the "carry over" provisions in IC 6-1.1-12-45 and IC 6-1.1-20.9-7. IC 6-1.1-12-45 and IC 6-1.1-20.9-7, as added by HEA 1293, created a "carry over" provision where a previous owner's deductions and homestead credit for pay-2009 can carry over to the new owner for pay-2009 if the new owner on March 1, 2009 is eligible for the deduction (e.g., mortgage deduction) on that date. This "carry over" provision was designed to protect the new homeowner who bought the house in, for example, February 2009 and filed for the homestead credit on the SDF at the closing. That new owner would clearly get the benefit of the credit for pay-2010; but what about his May 10, 2009 and November 10, 2009 property tax bills? Fortunately, with this "carry over" provision, the mortgage deduction or homestead credit held by the previous owner eligible for pay-2009 will protect the new owner for pay-2009.

**10. Question: Do we need to go back and change all of the exemptions we had in place for pay-2010 that were after March 1 of this year and put them on for pay-2009?**

*Answer:* Most likely, yes because HEA 1293 was retroactive to January 1, 2008. So, if a person moved into a new principal place of residence on July 7, 2008 and filed for the homestead credit on the SDF, the homestead credit will apply to pay-2009 where it would have applied to pay-2010 prior to the new law going into effect. The March 1 requirement and filing deadlines were eliminated (except for "carry over" purposes) for all deductions in IC 6-1.1-12 and the homestead credit.

**11. Question: What date, concerning ownership, should be used for property transfers? Formerly, if someone did not own a parcel on March 1, he or she did not get the tax bill for 2 years. (If I transferred on June 1, 2007, I did not get that tax bill until 2009.) Was this procedure changed to coincide with the December 31 deadline for deductions? Is the March 1 transfer date still in effect?**

*Answer:*

a. The March 1 deadline is mostly irrelevant now for the purposes of filing deadlines for the various AV deductions and the homestead credit, except for the "carry over" provision. March 1 still is important for purposes of application for the one (1) year "carry over" provision. Specifically, two issues, pertaining to the March 1 date, are discussed in the June 2 memo:

(1) On page 11 of 22 of the June 2 SDF memorandum, it states for purposes of the one (1) year "carry over" provision, HEA 1293, Section 38 added IC 6-1.1-12-45 to the Indiana

Code, **effective as of January 1, 2008 (retroactive)** and applying to property taxes first due and payable **in 2009 and thereafter**. This new section of the Code is a “carry over” provision to ensure the various assessed valuation deductions (e.g., mortgage, over 65, etc...) do not lapse after the transfer of property. A deduction applies for an assessment date (e.g., March 1, 2008) and for the property taxes due and payable based on the assessment for that assessment date (e.g., May 10, 2009 and November 10, 2009 property tax bills), regardless of whether the title is conveyed one (1) or more times, or one (1) or more contracts to purchase are entered into after that assessment date and on or before the next succeeding assessment date (e.g., between March 1, 2008 and March 1, 2009 assessment dates).

This “carry over” provision applies only if the title holder or the contract buyer on that next succeeding assessment date (e.g., March 1, 2009) is eligible for the deduction for that next succeeding assessment date (e.g., March 1, 2009); and regardless of whether one (1) or more grantees of title, or one (1) or more contract purchasers files an application to claim the deduction(s).

An example is provided in the June 2 SDF memorandum on pages 18-19:

*Mr. Jones bought a house on July 1, 2008, applied for the wind power device deduction on a regular application form, and was deemed eligible in accordance with IC 6-1.1-12-29 and IC 6-1.1-12-30. On February 1, 2009, Mr. Jones sells his home to Mr. Samuel. Mr. Samuel files a SDF and makes the wind power deduction application on his SDF. Since Mr. Samuel’s deduction application was filed on the SDF in February 2009, his deduction will not apply until his May 10, 2010 and November 10, 2010 property tax bills. However, Mr. Jones’s wind power device deduction, which he applied for and was determined to be eligible for in July 2008, entitled him to receive the benefits of the deduction for his May 10, 2009 and November 10, 2009 property tax bills. Under the “carry over” provision, Mr. Jones’s wind power device deduction “carries over” and applies to Mr. Samuel’s property taxes due and payable on May 10, 2009 and November 10, 2009 **only if** Mr. Samuel on March 1, 2009 is “eligible for the deduction” on March 1, 2009. This is the case even though the house was bought by Mr. Samuel on February 1, 2009. This “carry over” provision will only benefit Mr. Samuel for one (1) year; specifically, the property taxes due and payable on his new home on May 10, 2009 and November 10, 2009. Fortunately, since Mr. Samuel applied for and was determined to be eligible for the wind power device deduction through his filing of the SDF in February 2009, Mr. Samuel will receive the benefits of his wind power device deduction for his property taxes due and payable in 2010.*

A similar provision applies to the homestead credit and is discussed on page 17 of the June 2 SDF memo. HEA 1293, Section 45 amended IC 6-1.1-20.9-7, **effective on January 1, 2008 (retroactive)** and applying to property taxes first due and payable **in 2009 and thereafter**.

(2) As discussed on page 14 of the SDF memo, the March 1 requirement was repealed by HEA 1293, Section 40, which amended IC 6-1.1-20.9-2, effective as of January 1, 2008 (retroactive) and **applying only to property taxes first due and payable in 2009 and thereafter**. However, as discussed on page 13 and page 19 of the SDF memorandum, there is a clear contradiction between HEA 1001, Section 115, which keeps the March 1 deadline for

purposes of the homestead standard deduction (effective for pay-2009) and HEA 1293, Section 40, which eliminated the March 1 for purposes of the homestead credit (effective for pay-2009). As was stated twice in the June 2 SDF memo on pages 13 and 19:

*“[t]he assessment date (March 1 or January 15) ownership/contract requirement to obtain a homestead standard deduction will need to be eliminated by the General Assembly in the next legislative session in 2009. **This requirement is a direct and irreconcilable conflict with HEA 1293.** This provision does not go into effect until January 1, 2009, but will need to be addressed by the legislature next session.”*

Everyone from LSA to the fiscal policy analysts in the House and Senate to OMB is aware of the contradiction between HEA 1293 and HEA 1001 (P.L. 146-2008) on this particular issue involving the homestead credit and the homestead standard deduction. Hopefully, this contradiction will be fixed next legislative session. In the meantime, the Department has instructed county officials that the intent and spirit of HEA 1293 was to eliminate the March 1 requirement (except for the “carry over” provision).

b. The requirement to receive the assessed valuation deduction(s) or homestead credit is for the applicant to do the following: (1) own the real property, mobile home, or manufactured home; or (2) be buying the real property, mobile home, or manufactured home under contract; on the date the application for the deduction(s) or homestead credit is filed. For owners of real property, the application simply must be filed during the year for which the person wishes to obtain the deduction. In other words, the application must be filed on or before December 31 to receive the benefit on the following year’s property tax bills. For example, if the application is filed on or before December 31, 2008, the benefit of the homestead credit or deduction(s) will be applied to the May 10, 2009 and November 10, 2009 property tax bills. In summary, the June 11 filing deadline and March 1 residency/contract requirement no longer exist.

**12. Question: A homeowner lives in Indiana seven months during the year and in Florida during the rest of the year. The homeowner has a Florida driver’s license and Florida license plates. Can he legally have a homestead credit in Indiana?**

*Answer:* Residency/domicile remains where it first existed until there is a clear intent to change it. Based on the facts provided above, the individual resides in Indiana the majority of the year (seven months versus five months in Florida). While the registration of the car and the use of a Florida driver’s license are factors for determining residency, they are not deciding factors by themselves. Three additional factors that would help in the determination of residency are: (1) where the individual files his state income tax return; (2) whether a Florida homestead credit or similar benefit was filed for and received; and (3) where the individual is registered to vote. Also, since the issue is the intent of the homeowner, ask the homeowner where he intends to be a resident: Indiana or Florida. If these factors (i.e., state where income tax return is filed, a homestead credit or similar benefit received in Florida, voter registration, and homeowner’s intent) contribute to the conclusion that residency has changed from Indiana to Florida, the individual may not receive a homestead credit and homestead standard deduction in Indiana and may be subject to back taxes from the time when residency changed.